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Videotaped Deposition Sought by CBS Lawyers

'Demeanor' of CIA Ex-Director at Issue

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A CBS lawyers yesterday asked a federal appeals court panel here to force former CIA director Richard M. Helms to submit to a videotaped deposition for their defense against retired general William C. Westmoreland's libel suit.

Helms, who lives outside the subpoena power of the U.S. District Court in Manhattan where *Westmoreland v. CBS Inc.* is being tried, has said he has no intention of appearing voluntarily at the trial, according to lawyers for CBS and Helms. Helms did provide a written affidavit that supported Westmoreland's version of the 1967 intelligence debate at issue in the general's \$120 million libel action.

CBS lawyer David Boies, arguing that a videotape interview was needed instead of a written transcript of a deposition, told the U.S. Appeals Court panel here that he needs "demeanor evidence" by Helms to show the jury instead of a "dead deposition transcript."

In briefing documents for this appeal, Boies noted that Helms in

1977 was given a two-year suspended sentence and fined \$2,000 for failure to testify "fully and accurately" in 1973 before a Senate committee.

Boies told reporters outside the courtroom that he wants the film because he believes that Helms has "lied . . . in the past . . . , whether it was for good or evil."

"It's important so that [jurors] can take in the way he looks, how long it takes him to answer . . . all the kinds of things a jury looks at to determine 'is this guy telling the truth?'"

Helms, who in 1977 said his conviction was a badge of honor because he believed he was protecting intelligence sources, told reporters then: "I don't feel disgraced at all. I think if I had done anything else I would have been disgraced."

Helms' lawyer, John Kester, argued yesterday that the videotaping could cause an "embarrassment and annoyance" to his client, who appeared at the deposition when CBS subpoenaed him for its case, but refused to allow cameras.

"What CBS had going on here," Kester told the three-judge panel,



RICHARD M. HELMS
 . . . says he won't testify voluntarily

"was the 1984 version of the old program 'Candid Camera.'"

In earlier arguments over videotaping, Kester wrote that Helms had a "preeminent . . . concern about what future uses might be made of the videotape," including leaking tapes to the news media.

In the hearing yesterday, CBS also appealed a series of lower court rulings, including those saying the Central Intelligence Agency was within its rights to refuse the network two histories of the agency's actions in 1967-68.